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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,258	01/23/2004	Diegane Dione	DION-0001	8041

23550 7590 08/25/2005  
 HOFFMAN WARNICK & D'ALESSANDRO, LLC  
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 ALBANY, NY 12207

EXAMINER

WEBB, JAMISUE A

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/764,258	DIONE, DIEGANE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jamisue A. Webb	3629	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 June 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
2. With respect to Claim 1: the phrase “obtaining contact information for the occupant using the building information” is indefinite. It is unclear to the examiner how contact information can be obtained from building information, should this be from occupant information?

### ***Claim Rejections - 35 USC § 101***

Claims 1-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis for this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the “progress of science and the useful arts” (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use or advance the technological arts.

In the present case, claims 1-17 only recite an abstract idea. The recited steps of merely obtaining building information, associating occupant information with building information, contacting the occupant and obtaining the status of the occupant, does not apply, involve, use or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pen and paper. These steps only constitute an idea of how to manage occupants of a building during an emergency.

Additionally, for a claimed invention to be statutory, the claimed must produce a useful, concrete, and tangible result. In the present case, the claimed invention produces a method which manages occupants of a building during an emergency, so that the occupants are safe and obtains the status of the occupants (i.e., useful and tangible).

As to technological arts recited in the preamble, mere recitation in the preamble (i.e., intended or field of use) or mere implication of employing a machine or article of manufacture to perform some or all of the recited steps does not confer statutory subject matter to an otherwise abstract idea unless there is positive recitation in the claim as a whole to breathe life and meaning into the preamble. In the present case, none of the recited steps are directed to anything in the technological arts as explained above with the exception of the recitation in the preamble that the method is "computer implemented". Looking at the claim as a whole, nothing the body of the claim recites any structure of functionality to suggest that a computer performs the recited steps. Therefore, the preamble is taken to merely recite a field of use.

Although the recited process produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claims 1-17 are deemed to be directed to non-statutory subject matter.

*Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-6, and 8-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Hunter et al. (US 2003/0069002).

5. With respect to Claims 1, 8, 16-19 and 22: Hunter discloses the use of a method for managing occupants of a building or geographical area during an emergency (see abstract) comprising the steps of:

a. Obtaining building information for plurality of areas of a building (Paragraph 0052, 0053 and 0131), the plurality of areas include floors, and units of multi-unit dwellings. The claim states at least one floor and at least one area, therefore allowing there to be a single floor and a single area, therefore a unit of a multi-unit dwelling would be at least one floor or one area.

b. Obtaining occupant information for the occupant in the building. Hunter discloses that a device corresponds to an individual user (Paragraph 0024), and the system contains contact information (Paragraph 0017). The system collects user information which includes contact information to contact the user in an emergency. The limitation of the “name” being part of the contact information is deemed to be non-

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functional descriptive material and is not functionally involved in the steps recited. The steps of contacting the occupant would be performed the same regardless of whether the name is obtained, due to the fact that it is the contact information that is used to contact the occupant. Thus this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F .2d 1381, 1385, 217 USPQ 401, 404 (Fed.Cir.1983); *In re Lowry*, 32 F .3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Furthermore, it is inherent when you have contact information for a user, that the information includes the user's name, due to the fact that the system needs to know who the user is. The communication devices are registered and whenever registering information, a name is associated with a user that it is registered with.

- c. Obtaining a plan for a physical area, which can include building information for an occupant (Paragraphs 0052 and 0053);
  - d. Associating occupant information with corresponding area/building information (Paragraph 0056);
  - e. Contacting the occupant during an emergency (Hunter discloses displaying emergency information in a user's home, through television or through a telephone or pager, Paragraphs 0023, 0026, 0029, 0036 and 0048); and
  - f. Obtaining a status of the occupant (Paragraph 0073).
6. With respect to Claims 2, 12 and 20: Hunter discloses obtaining hierarchal representation of a building and where the occupant information is associated with one floor area (Hunter discloses the use of a building and with a special relationship, floor by floor, and unit by unit,

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Paragraph 0056 and 0131). It should be noted that the claims state “at least one floor” and “at least one area”, therefore allowing there to be only one floor and only one are.

7. With respect to Claims 3, 13 and 14: Hunter discloses a user having a device for communication, and the device associated with the occupant (Paragraph 0052).
8. With respect to Claims 4-6 and 21: Hunter discloses giving assistance and direction to the occupant, which includes giving the exit route (Paragraphs 0054-0056).
9. With respect to Claims 10 and 11: Hunter discloses the method of linking building areas, with floors, with corresponding floor areas (Paragraph 0056). Hunter also discloses the information is given in a room by room basis (Paragraph 0114).
10. With respect to Claim 15: Hunter discloses the telephone device is a handheld device, mobile telephone, home telephone or pager (Paragraph 0060).

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter et al. (US 2003/0069002).
13. With respect to Claim 7: Hunter discloses the use of databases or storage devices used for information, but fails to specifically disclose that a summary of statuses of the occupants. It is

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old and well known in the art that summaries are printed or generated from information contained in databases. This is done for things such as attendance records, bills or even college schedules. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made, to have the status information stored in the database, of Hunter, to be used to generate a summary, due to the fact that databases are used and created for sorting information and generating reports based on the stored information.

### ***Response to Arguments***

14. Applicant's arguments filed 6/9/05 have been fully considered but they are not persuasive.

15. With respect to applicant's arguments that the claims have been amended to overcome the 101 rejection. The claims only state a computer-implemented method in the preamble. There is nothing in the claims that require the use of a computer, therefore the steps can be performed by the user itself, without the use of a computer. See revised rejection above for further details. Therefore, rejection stands as state above.

16. With respect to applicant's argument that Hunter does not disclose the claimed step of obtaining occupant information that includes both a name and the contact information for the occupant: Hunter disclose obtaining contact information in order for the system to contact the individual user (Paragraphs 0017, 0019, 0020, 0035 and 0036). The rejection above is revised to include the newly added limitation of both the name and the contact information. When a user registers with a system and gives contact information, it is inherent that contact information includes a name, in order for the system to be able to determine who they are contacting.



Furthermore the limitation of the occupant information including a name is considered to be non-functional data. The information is used to contact the user, in the claims, the information of the name of the user is not used further in the method, and is considered to be merely collected, and not functionally related to the method. Therefore the rejection stands as stated above.

17. With respect to Applicant's arguments that the hierarchical representation of the building of Hunter does not include a floor node and an associated area node: As stated above, Hunter discloses the building information can be floor by floor, and can also be a unit, in a multi-unit dwelling. The claimed limitation states that "at least one floor" and "at least one floor area", therefore only requiring the use of one floor and one area. If a hierarchical relation is set up between a unit of a multi-unit dwelling, it is either going to have multiple floors or multiple areas, therefore satisfying the claimed limitation. Rejection stands as stated above.

18. With respect to Applicant's argument that Hunter does not disclose a plan: the examiner considers a drawing to be a floor plan, and therefore a plan of the area.

19. With respect to Applicant's argument that the rejection fails to show a prima facie case of obviousness due to the fact that whereas it is shown that the generation of reports is old and well known, the rejection fails to show that the generation of status reports is old and well known, and requests evidence that it is: Hunter discloses creating status information and putting it into a database. The rejection of record states that generating report from databases is old and well known in the art. Therefore it would have been obvious to take the database of Hunter, which includes status information, and generate a report, therefore resulting in the generation of a status report. Nelson (6,032,132) shows that it is old and well known in the art, to generate status reports (see Figure 1), Scott (US 2004/0068517) discloses that it is old and well known in the art

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to generate status reports (See Figure 4), and Gilbert et al. (6,380,851) also discloses that it is old and well known in the art to generate status reports (See Columns 2 and 3). Therefore showing that it is old and well known in the art to take collected information in a database (such Status information of Hunter) and create a report. Therefore the rejection stands as stated above.

### *Conclusion*

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Young et al. (US 2004/0168086) discloses the use of an interactive security risk management program for buildings.

21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

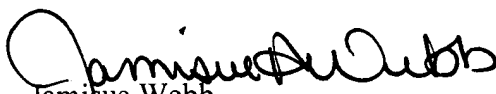
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

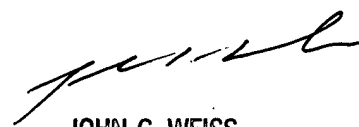
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (571) 272-6811. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jamisue Webb

  
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